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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,432	12/28/2000	Lynh Nguyen	ST9-99-134US2	7994
23373	7590	06/16/2005		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
			EXAMINER JAROENCHONWANIT, BUNJOB	
			ART UNIT 2143	PAPER NUMBER

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/750,432

Applicant(s)

NGUYEN, LYNH

Examiner

Bunjob Jaroenchonwanit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. The application has been reviewed. Claims 1–36 are pending for examination. The rejections and objected cited are as state below.

Priority

2. Priority, applicant claimed DIV, is acknowledge, however, the voluntarily filed DIV would not preclude the parent application from applying against the instant claims, if they are applicable (See MPEP 804.01).

3. The rejection under 35 USC § 112 is withdrawn.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-76 of co-pending Application No. 09/612,534 and claims 1-19 of co-pending Application No. 09/750,475. Although the conflicting claims are not identical, they are not patentably distinct from each other because this instance, the independent claims either broadened the claims in the copending application or included an obvious limitation, such as, requiring a log file, containing user selectable parameters, which routinely utilized in the database environment.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-4, 8, 10-15, 19, 21-27, 31 and 33-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Polizzi et al (US 2002/0023158).

8. Regarding claims 1, 8, 19 and 31, Polizzi discloses a method, apparatus and program product (hereinafter a "system") comprising:

providing at least one interface module to interface with a remote application (105, fig.);
providing port module to interface between interface module and data source (agent, 130, fig. 1);

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providing a connection manager to facilitate between the interface module and port module (service broker 125 fig. 1; paragraph. 21).

9. Regarding claims 2-3, 10, 14, 21, 25 and 33, Polizzi, further, teaches a log containing an arbitrary set of parameters to reflect connection between remote application and data sources (paragraph. 61).

10. Regarding claims 4, 15 and 26-27, Polizzi discloses the service broker serves only two functions:, first controls access to the portal system and second controls the disposition of jobs to the service agents within the portal system. There is no evidence that the broker must be used for subsequent connections between web client and agents, this implies the communication session between web client and agent is continue without service broker by using some conventional protocol, such as stateless protocol, which is readily being wildly utilized in the art for maintaining session and/or subsequent sessions connections. Since, applicant's specification is also silent on a teaching with regard to steps of independently or directly connection between port and interface module, examiner, thus, implied the same.

11. Regarding claims 11, 22 and 34, Polizzi discloses the parameter lists include data and time (paragraph 61).

12. Regarding claims 12, 23 and 35, Polizzi discloses the parameters are arranged in hierarchical relation (Fig. 5).

13. Regarding claims 13, 24 and 36, Polizzi discloses one parameter relates to output device (database server, Fig. 6).

14. Claims 5-7, 9, 16-18, 20, 28-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polizzi et al (US. 2002/0023158).

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15. Regarding claims 5, 16 and 28, Polizzi discloses the invention substantially, as claimed, as described, including but does not explicitly disclose the group of parameter consisting of a present SQL request, a warning message, an error message, a date, a time, a previous SQL request, a feature database schema and a number of records. However, including, various parameters in a group of parameter would have been obvious to one of ordinary skill in the art that was matter of design choice, which inclusion of parameters is dictated by objective or the applications.

16. Regarding claims 6-7, 17-18 and 29-30, Polizzi discloses the system substantially, including log file contain parameters, Even though Polizzi does not explicitly discuss about reducing processing time by limiting number of parameter selected and reflected history by expanding type and number of parameter. However, such claimed feature is either inherent or implied a by-product of the system that capable of maintaining log file. Thus to expand history of interaction with number and type of parameter and limited processing time by controlling number of selecting parameters would have been obvious to one of ordinary skill in the art that was a matter of implementations choice, does not require any inventive step beside having a user to specify number and type of parameters. Such specifying, in fact, routinely user in searching sorting filtering data, record from all forms of database.

17. Regarding claims 9, 20, 32, Polizzi discloses the invention substantially, as claimed, as described, including hosting interface module is separate computer from data source. Polizzi does not explicitly disclose the interface is hosted in the data source computer. However, relocating interface module from other computer to data source computer is merely a part rearranging parts, which does not modify operation of the device, i.e., no matter where the

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interface module located it's connectivity to the port module still is being control by connection manager, which court held that is unpatentable (*In re Japikse*, 18 F.2d 1019,86 USPQ 70 (CCPA1950)).

18. Applicant's arguments filed 03/22/05 have been fully considered but they are not persuasive. In the remark applicant argue in substance that:

A. With respect to claims 1, 14 and 25, the prior art does not teach port module to interface between interface module and data source. Examiner disagreed Polizzi clearly illustrated a plurality of service agent, i.e., port module, interface between web client, i.e., module interface and database, i.e., data source. In applicant's disclosure, the term "module" is referred to as any form of computer executable code, "Various components of the invention are described herein as "modules." In various embodiments, *the modules may be implemented as software, hardware, firmware or any combination thereof*. For example, as used herein, *a module may include any type of computer instruction or computer executable code located within a memory device and/or transmitted as electronic signals over a system bus or network*. An identified *module may, for instance, comprise one or more physical or logical blocks of computer instructions, which may be organized as an object, procedure, function, or the like.*" (Emphasis added, Spec. page 8). In addition, applicant further refers to connection manager as the same, "*The connection manager 220 is a module that may include any type of computer instruction or computer executable code located within a memory device and/or transmitted as electronic signals over a system bus or network. It may comprise one or more logical blocks of computer instructions, which may be organized as an object, procedure, function, or the like.*" (Emphasis added, Spec. page 13).

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Insofar, applicant fails to distinguish port module from interface module and connection manager, let alone distinguish from web client, and service agent in Polizzi. Since they all can be implanted in form of software, firmware or the like and they all comprise software instructions, they can either be presented in form of object, module, function **or the like**. The only requirement that may differentiate one from the other is the structural different. For instance, while one end of the interface module interfaces with remote application, e.g., web browser (spec. page 13), the other end of port module interfaces with data source. Applicant is directed to Polizzi's figure 1, which illustrates web client, a software module that being utilized by a server for interfacing with web browser, and service agents, i.e., software module, that interfaces between web client and data sources. Polizzi's teaching meets the requirement of claims 1, 14 and 25.

B. With respect to claims 14 and 25, applicant argued that Polizzi does not teach "establishing an arbitrary set of users-selectable parameters to reflect a status of a connection between the remote application and the data source." In light of applicant's specification, "In one embodiment, an arbitrary set of user-selectable parameters reflects a status of the connection between the remote application and the data source. These *parameters may include a present SQL request, a warning message, an error message, a date, a time, a previous SQL request, a feature database schema, and/or a number of records.*" (Emphasis added, Spec. page 24).

Polizzi teaches the parameter list includes time event, which is one of the exemplary parameters, above.

C. With respect to claims 4, 15 and 26, applicant argued that Polizzi does not teach directly or independently connections from connection manager, in light of specification,

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applicant's specification is silent on teaching with respect to steps to accomplish independently or directly connection between port and interface module. An artisan would be appreciated that directly connection in the Internet is conventional and common practiced, prior to introduction of assertion of intermediate module, such as agent or the like.

Since, Polizzi teaches Service Broker's functionality analogous to functionality of the claimed connection manager. For example, assigning port to interface module (spec page 18), or in case of Polizzi, the broker assigns web client to an available agent in round-robin fashion at the logs in time (paragraph 35). In addition, Polizzi explicitly stated that the broker serves only two functions: controls access to the portal system and controls the disposition of jobs to the service agents within the portal system. Nowhere in Polizzi that suggests the broker must continue assigns subsequent connection. Since, both teachings silent on the same, it would be reasonable to imply that they must utilize some conventional concepts or protocols for maintaining subsequent sessions or connections, such as using stateless protocol, cookies or brownies for reestablishing sessions or communications subsequently from being assigned from the connection manage or the service broker.

19. Applicant argument direct to application different, which does not commensurate with the claim language has not been considered. Examiner recognizes that there may be some fundamentally different between applicant disclosure and Polizzi's teaching, it is the claimed invention that examiner must address.

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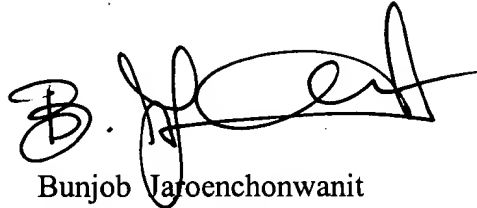
20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (571) 272-3913. The examiner can normally be reached on 8:00-17:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions

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on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'B. Jaroenchonwanit', with a stylized flourish extending to the right.

Bunjob Jaroenchonwanit
Primary Examiner
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/bj
6/12/05